

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO. 125 OF 2012
IN
SUIT NO. 817 OF 2005**

Bank of Baroda

.. Plaintiff

Vs.

Azim Anisha & Ors.

.. Defendants

Ms.Prachi Sawant i/b M.V. Kini & Co. for plaintiff.

None for defendants.

**CORAM : K.R.SHRIRAM, J.
DATED : 15TH SEPTEMBER, 2015**

P.C.

1 This is an application to set aside an order dated 2.03.2005 passed by the Prothonotary and Senior Master dismissing the suit under Rule 986 of the High Court (O.S.) Rules, 1980. It is stated in the affidavit in support that the advocate who was looking after the matter left the plaintiff's firm and the court clerk did not keep track of the above matter through oversight and therefore office objections were not removed within the stipulated period and the suit came to be dismissed on 02.03.2005. It is also stated that the advocate for the plaintiff took search of the above matter on the internet only on 20.12.2011 by which they came to know that the suit was dismissed more than six years earlier. Nowhere in the affidavit has it been stated as to what the other advocate or the Partner of the firm were doing and why they

did not keep a check on the matter. Be that as it may, I am allowing the chamber summons and restoring the suit to file. At the same time, the plaintiff should be put to terms. The plaintiff to pay a sum of Rs.10,000/- as donation to the Tata Memorial Hospital and Research Centre within two weeks. As the claim in the suit is for less than Rs.1 crore, the matter be transferred to City Civil Court, Mumbai. City Civil also to take cognizance of the matter only after being satisfied that the plaintiff has paid a sum of Rs.10,000/- as directed above.

3 The chamber summons stands disposed accordingly.

(K.R. SHRIRAM, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgement/Order.